



Economic Impact Analysis Virginia Department of Planning and Budget

11 VAC 10-20-220 – Virginia Racing Commission Assignment of Racing Days June 2, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Pursuant to amendments to section 59.1-380 of the Code of Virginia in 2000, the proposed changes will allow the Virginia Racing Commission (the commission) to accept a letter of credit in addition to a surety bond from an owner's licensee to cover any indebtedness incurred and will reduce the amount of surety required from at least \$1 million to any amount the commission determines sufficient to cover such indebtedness. Additionally, two other changes will allow the commission to consider a request to change the assignment of racing days at its next meeting without having to wait for 15 days and once the request is approved allow the commission to change the schedule without having to wait the beginning of the calendar year.

Estimated Economic Impact

Prior to 2000, the code of Virginia required \$1 million or higher amount in a surety bond to cover any indebtedness of a licensee to purses, awards to horsemen, and monies due to the Commonwealth. The proposed changes will allow the use of a letter of credit in addition to a surety bond and allow the commission to determine the amount of security needed to cover such

indebtedness. The commission believes that letter of credit is less expensive and easier to convert to cash if needed. Thus, the potential administrative costs to the commission is probably lower should it need to recover any monies from the licensee. Currently, the licensee provides letters of credit instead of a surety bond. Since it is optional to use letters of credit, it could be reliably inferred that the licensee would use it only if it is economically more beneficial than the surety bond.

Also, allowing the commission to determine the amount of surety rather than requiring a standard at least \$1 million security for potential indebtedness would provide economic benefits to the licensee. From an economic point of view, the amount of surety should be just enough to cover potential risks arising from indebtedness, or the security should be commensurate with the amount of risk taken. Since the statutory change went into effect, the commission requires \$200,000 security to cover purses and \$200,000 to cover taxes due to the Commonwealth, or a total of \$400,000 as opposed to previously required at least \$1 million. It is also known that the cost of a letter of credit is about 2% of its face value and the licensee prefers letters of credit now. These indicate that providing authority to establish a surety amount below \$1 million reduces the costs to the licensee from \$20,000 to \$8,000, or provides \$12,000 net benefits to the licensee every year. Although this change has the potential to introduce some administrative costs to the commission while determining the appropriate amount of security, they are probably minor as it is probably easy to estimate the potential sizes of purses and taxes based on the readily available statistical records for similar races. However, the potential economic effects expected from these statutory changes already occurred when they went in to effect. Thus, these changes are not expected to produce any significant economic effects upon promulgation of these regulations as they are already realized in practice.

In addition to the statutory changes, the proposed regulations will provide more flexibility to the commission to revise the assignment of racing days when it receives such requests. Currently, the commission, upon receiving a request for racing days from a licensee, considers them at least 15 days later, and has to wait until the beginning of next calendar year to change the assignment. The proposed changes will remove these two limitations so that requests can be considered at the next regular meeting without having to wait 15 days and if the request is approved, the assignment for racing days can be changed immediately. These two changes provide more flexibility to both the licensee and the commission and will probably allow both to

react to unforeseeable events more expeditiously. Since it is at the discretion of the licensee to submit a request, an expeditious process would probably increase potential benefits of such a request. And, if the administrative costs of an expedited process do not outweigh the benefits to the licensee, these changes would provide net economic benefits.

Businesses and Entities Affected

The proposed regulations primarily apply to owner's licensees who are authorized to conduct a horse race meeting with pari-mutuel wagering privileges. Currently, Colonial Downs is the only entity with an owner's and operator's license in the Commonwealth. In addition, 1,947 horse owners would also be affected annually. Moreover, employees, particularly jockeys and exercise riders, and people attending races or placing wagers may be indirectly affected. There are approximately 500 employees working permanently or temporarily at the racetrack or satellite facilities. Of these, it is estimated that approximately 40 are jockeys and about 80 are exercise riders at a race meeting. The total attendance at the racetrack and the satellite facilities was 523,216 in fiscal year 2002.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth. However, cities of New Kent, Brunswick, Chesapeake, Hampton, Richmond, and Henrico County receive taxes from pari-mutuel wagering proceeds, which are covered by the surety requirements being amended with this action. It is in this sense that these localities are particularly affected.

Projected Impact on Employment

The proposed change's effect on employment is not known because the effect on the horse racing activity is uncertain.

Effects on the Use and Value of Private Property

If this change improves the profits of the licensee from more flexibility to change the assignment of racing days, there is likely to be a positive impact on the value of businesses involved with operating a racetrack.